

109TH CONGRESS  
1ST SESSION

# S. 963

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Veterans' Health Care  
5 and Equitable Access Act of 2005".

1 **SEC. 2. ASSURANCE OF ADEQUATE FUNDING FOR VET-**  
 2 **ERANS' HEALTH CARE.**

3 (a) IN GENERAL.—Chapter 3 of title 38, United  
 4 States Code, is amended by adding at the end the fol-  
 5 lowing:

6 **“§ 321. Assured funding for veterans’ health care**

7 “(a) For each fiscal year, the Secretary of the Treas-  
 8 ury shall make available to the Secretary the amount de-  
 9 termined under subsection (b) with respect to that fiscal  
 10 year, which shall remain available, without fiscal year limi-  
 11 tation, for the programs, functions, and activities of the  
 12 Veterans Health Administration, as specified in subsection  
 13 (c).

14 “(b)(1) The amount applicable to fiscal year 2007  
 15 under this subsection is \$43,000,000,000.

16 “(2) The amount applicable to any fiscal year after  
 17 fiscal year 2007 under this subsection is the amount equal  
 18 to the product of—

19 “(A) the sum of—

20 “(i) the number of veterans enrolled in the  
 21 Department health care system under section  
 22 1705 of this title as of July 1 preceding the be-  
 23 ginning of such fiscal year; and

24 “(ii) the number of persons eligible for  
 25 health care under chapter 17 of this title who  
 26 are not covered by clause (i) and who were pro-

1           vided hospital care or medical services under  
2           such chapter at any time during the fiscal year  
3           preceding such fiscal year; and

4           “(B) the per capita baseline amount, as in-  
5           creased annually pursuant to paragraph (3)(B).

6           “(3)(A) For purposes of paragraph (2)(B), the term  
7           ‘per capita baseline amount’ means the amount equal to—

8           “(i) the amount specified in paragraph (1), di-  
9           vided by

10           “(ii) the number of veterans enrolled in the De-  
11           partment health care system under section 1705 of  
12           this title as of September 30, 2005.

13           “(B) With respect to any fiscal year, the Secretary  
14           shall provide a percentage increase (rounded to the near-  
15           est dollar) in the per capita baseline amount equal to the  
16           percentage by which—

17           “(i) the Consumer Price Index (All Urban Con-  
18           sumers, United States city average, hospital and re-  
19           lated services, seasonally adjusted), published by the  
20           Bureau of Labor Statistics of the Department of  
21           Labor for the 12-month period ending on June 30  
22           preceding the beginning of the fiscal year for which  
23           the increase is made; exceeds

1           “(ii) such Consumer Price Index for the 12-  
2           month period preceding the 12-month period de-  
3           scribed in clause (i).

4           “(c)(1) Except as provided in paragraph (2),  
5           amounts made available pursuant to subsection (a) may  
6           be used for all programs, functions, and activities of the  
7           Veterans Health Administration.

8           “(2) Amounts made available pursuant to subsection  
9           (a) may not be used for—

10           “(A) construction, acquisition, or alteration of  
11           medical facilities as provided in subchapter I of  
12           chapter 81 of this title (except for such repairs as  
13           were provided for before the date of enactment of  
14           this section through the medical care appropriation  
15           for the Department); or

16           “(B) grants under subchapter III of chapter 81  
17           of this title.”.

18           (b) CLERICAL AMENDMENT.—The table of sections  
19           at the beginning of chapter 3 of title 38, United States  
20           Code, is amended by adding at the end the following:

“321. Assured funding for veterans’ health care.”.

21           **SEC. 3. PILOT PROGRAM ON IMPROVED ACCESS TO**  
22                               **HEALTH CARE FOR VETERANS WHO RESIDE**  
23                               **IN HIGHLY RURAL AND GEOGRAPHICALLY**  
24                               **REMOTE AREAS.**

25           (a) PILOT PROGRAM.—

1           (1) IN GENERAL.—The Secretary of Veterans  
2       Affairs shall conduct a pilot program to evaluate the  
3       feasability and advisability of utilizing various means  
4       to improve the access of veterans who reside in high-  
5       ly rural or geographically remote areas to health  
6       care services referred to in subsection (d).

7           (2) PROVISION OF SERVICES UNDER PILOT  
8       PROGRAM.—In conducting the pilot program, the  
9       Secretary shall provide health care services referred  
10      to in subsection (d) to eligible veterans who reside  
11      in highly rural or geographically remote areas in the  
12      geographic service regions selected for purposes of  
13      the pilot program utilizing the contract authority of  
14      the Secretary under section 1703 of title 38, United  
15      States Code, and such other authorities available to  
16      the Secretary as the Secretary considers appropriate  
17      for purposes of the pilot program.

18      (b) ELIGIBLE VETERANS.—A veteran is an eligible  
19      veteran for purposes of this section if the veteran—

20           (1) has a service-connected disability; or

21           (2) is enrolled in the veterans health care sys-  
22      tem under section 1705 of title 38, United States  
23      Code.

24      (c) HIGHLY RURAL OR GEOGRAPHICALLY REMOTE  
25      AREAS.—An eligible veteran resides in a highly rural or

1 geographically remote area for purposes of this section if  
2 the veteran—

3 (1) resides in a location that is more than 60  
4 miles driving distance from the nearest Department  
5 of Veterans Affairs health care facility; or

6 (2) in the case of an eligible veteran who re-  
7 sides in a location that is less than 60 miles driving  
8 distance from such a facility, experiences such hard-  
9 ship or other difficulties (as determined pursuant to  
10 regulations prescribed by the Secretary for purposes  
11 of this section) in travel to the nearest Department  
12 of Veterans Affairs health care facility that such  
13 travel is not in the best interests of the veteran.

14 (d) HEALTH CARE SERVICES.—The health care serv-  
15 ices referred to in this subsection are—

16 (1) acute or chronic symptom management;

17 (2) nontherapeutic medical services; and

18 (3) any other medical services jointly deter-  
19 mined appropriate for an eligible veteran for pur-  
20 poses of this section by the physician of the depart-  
21 ment responsible for primary care of such eligible  
22 veteran and the director of the Veterans Integrated  
23 Service Network concerned.

24 (e) AREAS FOR CONDUCT OF PILOT PROGRAM.—

1           (1) IN GENERAL.—The pilot program shall be  
2           conducted in 3 of the geographic service regions of  
3           the Veterans Health Administration (referred to as  
4           Veterans Integrated Service Networks) selected by  
5           the Secretary for purposes of the pilot program.

6           (2) SELECTION.—In selecting geographic serv-  
7           ice regions for purposes of the pilot program, the  
8           Secretary shall select—

9                   (A) Veterans Integrated Service Network  
10           number 23 as 1 of the regions for the conduct  
11           of the pilot program; and

12                   (B) the other 2 geographic service regions  
13           for the conduct of the pilot program from  
14           among the Veterans Integrated Service Net-  
15           works that have a substantial population of vet-  
16           erans who reside in highly rural or geographi-  
17           cally remote areas.

18           (f) PERIOD OF PILOT PROGRAM.—The pilot program  
19           shall be conducted during fiscal years 2006, 2007, and  
20           2008.

21           (g) FUNDING FOR PILOT PROGRAM.—

22                   (1) IN GENERAL.—For each fiscal year during  
23           which the pilot program is conducted, the Secretary  
24           shall allocate for the pilot program an amount equal

1 to 0.9 percent of the total amount appropriated for  
 2 such fiscal year for medical services.

3 (2) TIMING OF ALLOCATION.—The allocation  
 4 under paragraph (1) for a fiscal year shall be made  
 5 before any other allocation of funds for medical care  
 6 is made for such fiscal year, and any remaining allo-  
 7 cation of funds for medical care for such fiscal year  
 8 shall be made without regard to the allocation under  
 9 paragraph (1) in such fiscal year.

10 (h) REPORT TO CONGRESS.—Not later than Feb-  
 11 ruary 1, 2009, the Secretary shall submit to Congress a  
 12 report on the pilot program. The Secretary shall include  
 13 in the report such recommendations as the Secretary con-  
 14 siders appropriate concerning extension of the pilot pro-  
 15 gram or other means to improve the access of veterans  
 16 who reside in highly rural or geographically remote areas  
 17 to health care services referred to in subsection (d).

18 **SEC. 4. TRAVEL REIMBURSEMENT FOR VETERANS RECEIV-**  
 19 **ING TREATMENT AT VETERANS FACILITIES.**

20 Section 111 of title 38, United States Code, is  
 21 amended—

22 (1) in subsection (a), by striking “), or in lieu  
 23 thereof an allowance based upon mileage traveled”  
 24 and insert “at a rate equivalent to the rate provided  
 25 to Federal employees under section 5702 of title 5),



1 or in lieu thereof an allowance based upon mileage  
 2 traveled (at a rate equivalent to the rate provided to  
 3 Federal employees under section 5704 of title 5)”;  
 4 (2) by striking subsection (g); and  
 5 (3) by redesignating subsection (h) as sub-  
 6 section (g).

7 **SEC. 5. DISABILITY RATING FOR VETERANS WHO LOSE USE**  
 8 **OF A LIMB AS A RESULT OF A SERVICE-CON-**  
 9 **NECTED INJURY.**

10 Any veteran who lost the use of an arm or a leg as  
 11 a result of a service-connected injury shall have a disability  
 12 rating of not less than 50 percent disabled.

13 **SEC. 6. ESTABLISHMENT OF MEDICARE SUBVENTION FOR**  
 14 **VETERANS.**

15 (a) IN GENERAL.—Section 1862 of the Social Secu-  
 16 rity Act (42 U.S.C. 1395y) is amended by adding at the  
 17 end the following:

18 “(n) MEDICARE SUBVENTION FOR VETERANS.—

19 “(1) ESTABLISHMENT OF PROCEDURE FOR RE-  
 20 IMBURSEMENT.—

21 “(A) IN GENERAL.—The administering  
 22 Secretaries shall establish a procedure under  
 23 which the Secretary shall reimburse the Sec-  
 24 retary of Veterans Affairs, from the trust

1 funds, for medicare health care services fur-  
2 nished to medicare-eligible veterans.

3 “(B) REQUIREMENTS.—Under the proce-  
4 dure—

5 “(i) the administering Secretaries  
6 shall certify that any Department of Vet-  
7 erans Affairs medical facility that fur-  
8 nishes medicare health care services for  
9 which the Secretary of Veterans Affairs is  
10 reimbursed under this subsection has suffi-  
11 cient—

12 “(I) resources and expertise to  
13 provide the health care benefits re-  
14 quired to be provided to beneficiaries;  
15 and

16 “(II) information and billing sys-  
17 tems in place to ensure accurate and  
18 timely submission of claims for health  
19 care benefits to the Secretary;

20 “(ii) the Secretary shall have access to  
21 all data of the Department of Veterans Af-  
22 fairs that the Secretary determines is nec-  
23 essary to verify accuracy in billing and  
24 claims information; and

1 “(iii) the Secretary shall waive re-  
2 quirements for conditions of participation  
3 otherwise applicable to a provider of serv-  
4 ices, physician, practitioner, supplier, or  
5 facility under this title in the case of a De-  
6 partment of Veterans Affairs medical facil-  
7 ity consistent with paragraph (3).

8 “(C) RESTRICTION ON NEW OR EXPANDED  
9 FACILITIES.—No new Department of Veterans  
10 Affairs medical facilities may be built or ex-  
11 panded with funds received under this sub-  
12 section.

13 “(2) COST-SHARING.—The amount of reim-  
14 bursement for medicare health care services to the  
15 Secretary of Veterans Affairs for medicare health  
16 care services shall be reduced by amounts attrib-  
17 utable to applicable deductible, coinsurance, and  
18 cost-sharing requirements under this title.

19 “(3) MEDICARE REQUIREMENTS.—

20 “(A) WAIVER.—The Secretary shall waive  
21 any requirements referred to in paragraph  
22 (1)(B)(iii) (relating to requirements for condi-  
23 tions of participation) in the case of a Depart-  
24 ment of Veterans Affairs medical facility, or ap-  
25 prove equivalent or alternative ways of meeting

1 such a requirement, but only if such waiver or  
2 approval—

3 “(i) reflects the unique status of the  
4 Department of Veterans Affairs as an  
5 agency of the Federal Government; and

6 “(ii) is necessary to carry out, or im-  
7 prove the efficiency of, this subsection.

8 “(B) WAIVER OF PROHIBITION ON PAY-  
9 MENTS TO FEDERAL PROVIDERS OF SERV-  
10 ICES.—The prohibition of payments to Federal  
11 providers of services under sections 1814(c) and  
12 1835(d), and paragraphs (2) and (3) of sub-  
13 section (a), shall not apply.

14 “(4) VERIFICATION OF ELIGIBILITY.—

15 “(A) IN GENERAL.—The Secretary of Vet-  
16 erans Affairs shall establish procedures for de-  
17 termining whether an individual is a medicare-  
18 eligible veteran.

19 “(B) RESTRICTION.—No reimbursement  
20 shall be made under this subsection for any  
21 medicare health care service provided to an in-  
22 dividual unless the individual has been deter-  
23 mined to be a medicare-eligible veteran pursu-  
24 ant to the procedures established under sub-  
25 paragraph (A).

1           “(5) DATA REQUIREMENTS.—Reimbursements  
2           for medicare health care services furnished to medi-  
3           care-eligible veterans may not be made until such  
4           time as the administering Secretaries certify to Con-  
5           gress that the—

6                   “(A) cost accounting and related trans-  
7                   action systems of the Veterans Health Adminis-  
8                   tration provide cost information and encounter  
9                   data regarding health care delivered at each  
10                  Department of Veterans Affairs medical facility  
11                  on an inpatient and outpatient basis; and

12                   “(B) cost information and encounter data  
13                   provided by such systems is accurate, reliable,  
14                   and consistent across all facilities.

15           “(6) PAYMENTS BASED ON REGULAR MEDICARE  
16           PAYMENT RATES.—

17                   “(A) AMOUNT.—Subject to the succeeding  
18                   provisions of this paragraph, the Secretary shall  
19                   reimburse the Secretary of Veterans Affairs for  
20                   health care benefits provided to medicare-eli-  
21                   gible veterans at a rate equal to 100 percent of  
22                   the amounts that otherwise would be payable  
23                   under this title on a noncapitated basis for such  
24                   service if the Department of Veterans Affairs  
25                   medical facility were a provider of services, were

1 participating in the medicare program, and im-  
2 posed charges for such service.

3 “(B) EXCLUSION OF CERTAIN AMOUNTS.—

4 In computing the amount of payment under  
5 subparagraph (A), the following amounts shall  
6 be excluded:

7 “(i) DISPROPORTIONATE SHARE HOS-  
8 PITAL ADJUSTMENT.—Any amount attrib-  
9 utable to an adjustment under section  
10 1886(d)(5)(F).

11 “(ii) DIRECT GRADUATE MEDICAL  
12 EDUCATION PAYMENTS.—Any amount at-  
13 tributable to a payment under section  
14 1886(h).

15 “(iii) INDIRECT MEDICAL EDUCATION  
16 ADJUSTMENT.—Any amount attributable  
17 to the adjustment under section  
18 1886(d)(5)(B).

19 “(iv) PERCENTAGE OF CAPITAL PAY-  
20 MENTS.—Sixty-seven percent of any  
21 amounts attributable to payments for cap-  
22 ital-related costs under medicare payment  
23 policies under section 1886(g).

1           “(C) PERIODIC PAYMENTS FROM MEDI-  
2           CARE TRUST FUNDS.—Payments under this  
3           paragraph shall be made—

4                   “(i) on a periodic basis consistent  
5                   with the periodicity of payments under this  
6                   title; and

7                   “(ii) in appropriate part, as deter-  
8                   mined by the Secretary, from the trust  
9                   funds.

10           “(7) CREDITING OF PAYMENTS.—Any payment  
11           shall be deposited in the Department of Veterans Af-  
12           fairs Medical Care Collections Fund established  
13           under section 1729A of title 38, United States Code.

14           “(8) RULES OF CONSTRUCTION.—Nothing in  
15           this subsection shall be construed—

16                   “(A) as prohibiting the Inspector General  
17                   of the Department of Health and Human Serv-  
18                   ices from investigating any matters regarding  
19                   the expenditure of funds under this subsection,  
20                   including compliance with the provisions of this  
21                   title and all other relevant laws; or

22                   “(B) as adding or requiring additional cri-  
23                   teria for eligibility for health care benefits fur-  
24                   nished to veterans by the Secretary of Veterans

1 Affairs, as established under chapter 17 of title  
2 38, United States Code.

3 “(9) EVALUATION AND REPORTS.—The admin-  
4 istering Secretaries shall conduct ongoing evalua-  
5 tions of the procedure established under this sub-  
6 section, and shall submit periodic reports to Con-  
7 gress on—

8 “(A) any savings or costs to the medicare  
9 program by reason of this subsection; and

10 “(B) effects of this subsection on access to  
11 care by medicare-eligible veterans.

12 “(10) DEFINITIONS.—In this subsection:

13 “(A) ADMINISTERING SECRETARIES.—The  
14 term ‘administering Secretaries’ means the Sec-  
15 retary and the Secretary of Veterans Affairs,  
16 acting jointly.

17 “(B) MEDICARE HEALTH CARE SERV-  
18 ICES.—The term ‘medicare health care services’  
19 means items or services covered under part A  
20 or part B of this title.

21 “(C) MEDICARE-ELIGIBLE VETERAN.—The  
22 term ‘medicare-eligible veteran’ means an indi-  
23 vidual who—

24 “(i) is a veteran (as defined in section  
25 101 of title 38, United States Code) who



1 is eligible for care and services under sec-  
 2 tion 1705(a) of title 38, United States  
 3 Code;

4 “(ii) has attained age 65;

5 “(iii) is entitled to, or enrolled for,  
 6 benefits under part A of this title; and

7 “(iv) is enrolled for benefits under  
 8 part B of this title.

9 “(D) TRUST FUNDS.—The term ‘trust  
 10 funds’ means the Federal Hospital Insurance  
 11 Trust Fund established in section 1817 and the  
 12 Federal Supplementary Medical Insurance  
 13 Trust Fund established in section 1841.

14 “(E) DEPARTMENT OF VETERANS AFFAIRS  
 15 MEDICAL FACILITY.—The term ‘Department of  
 16 Veterans Affairs medical facility’ means a med-  
 17 ical facility as defined in section 8101(3) of title  
 18 38, United States Code, alone or in conjunction  
 19 with other facilities under the jurisdiction of the  
 20 Secretary of Veterans Affairs.”.

21 **SEC. 7. MEDICAL REIMBURSEMENT STUDY AND REPORT.**

22 (a) STUDY.—

23 (1) IN GENERAL.—The Secretary of Veterans  
 24 Affairs, in consultation with the Secretary of De-  
 25 fense, shall conduct a study of the reimbursements

1 received by the Department of Veterans Affairs and  
2 the Department of Defense from insurance compa-  
3 nies and other responsible parties for services per-  
4 formed and medication dispensed at the medical fa-  
5 cilities of such departments.

6 (2) ISSUES TO BE STUDIED.—The study con-  
7 ducted under this subsection shall determine, for the  
8 fiscal year ending within 1 year before the date of  
9 enactment of this Act—

10 (A) the value of the services and medica-  
11 tion provided by the Department of Veterans  
12 Affairs or the Department of Defense for which  
13 another party is financially responsible;

14 (B) the value of such services and medica-  
15 tion that were billed to such financially respon-  
16 sible parties; and

17 (C) the amount of reimbursement paid by  
18 such financially responsible parties to the De-  
19 partment of Veterans Affairs or the Depart-  
20 ment of Defense.

21 (b) REPORT.—Not later than 1 year after the date  
22 of enactment of this Act, the Secretary of Veterans Affairs  
23 shall submit a report to Congress on the results of the  
24 study conducted under subsection (a).

1 **SEC. 8. EXTENSION OF CHILD CARE ELIGIBILITY FOR CHIL-**  
2 **DREN OF SOLDIERS WHO DIE IN THE LINE OF**  
3 **DUTY.**

4 Section 1799 of title 10, United States Code, is  
5 amended by adding at the end the following:

6 “(d) CHILDREN WHOSE MILITARY PARENT DIED IN  
7 THE LINE OF DUTY.—If a member of the Armed Forces,  
8 National Guard, or Reserve dies while on active service  
9 or active status, any child of such individual who is en-  
10 rolled in any Federal child care program shall be eligible  
11 to continue receiving such child care services for a period  
12 of 24 months following such death.”.

○